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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,632	11/24/2003	Martin C. Baker	H0005465--1060	7694

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EXAMINER
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ELVE, MARIA ALEXANDRA

ART UNIT	PAPER NUMBER
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1725

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/721,632

Applicant(s)

BAKER ET AL

Examiner

M. Alexandra Elve

Art Unit

1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/8/05, 11/24/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 3-4 & 9-14 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of copending Application No. 10/713,759. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are directed to a hand held laser welding unit.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 3-4 & 9-14 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18, 23 & 25-31 of copending Application No. 10/741,114. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are directed to a hand held laser welding unit.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-2, 5, 8, 15, & 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nied et al. (USPN 4,906,812) in view of Nath (USPN 3,843,865).

Nied et al. discloses a fiber optic apparatus for spot welding, brazing and so forth. An optical fiber transmits the laser beam to the workpiece. Passages in the housing communicate with the chamber enabling processing gas (inert gas) to flow through the chamber. This processing gas envelopes the workpiece region. Additionally, purging gas flows through the passages and through the chamber. Preferably the gas flow is of a high velocity in order to provide cooling to the tool.

The bottom of the fiber optic may be shaped in a convex lens shape thus providing focusing for the laser beam. A lens system may be incorporated into the tool for focusing the laser beam emitted by the fiber optic cable. (abstract, figures, col. 3, lines 6-18, col. 5, lines 40-50, 66-68, col. 6, lines 1-8)

Nied et al. discloses a tapered housing but does not specifically state that it is a nozzle.

Nath discloses a laser beam device having a flexible cable used for microwelding. The long end of the flexible tubing is formed into a nozzle that can emit gas. For high power applications liquid is pumped through the tubing to an external cooling media or larger reservoir of cooling fluid. (abstract, figures, col. 1, lines 1-20, col. 2, lines 65-68, col. 4, lines 40-47)

It would have been obvious to one of ordinary skill in the art at the time of the invention to have a nozzle on the end of the tubing, as taught by Nath in the Nied et al. system because this is merely a functional equivalent for a tapered housing.

Claims 3-4, 9-10, & 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nied et al. and Nath, as stated above and further in view of Jones et al. (USPN 4,564,736).

Nied et al. and Nath do not teach the use of a filler material.

Jones et al. discloses a hand held laser tool and accompanying system, which may be used for welding. The hand held laser tool has a focusing optical system for the laser beam and an inert gas supply for shielding gas. The hand held housing may be adapted to include filler material for welding. (abstract, figures, col. 1, lines 45-68, col. 4)

It would have been obvious to one of ordinary skill in the art at the time of the invention to use a filler material, as taught by Jones et al. in the Nied et al. and Nath system because this is merely a component of welding systems.

Claims 6-7, & 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nied et al. and Nath, as stated above and further in view of Muncheryan (USPN 3,821,510).

Nied et al. and Nath do not teach a conduit for beam collimation.

Muncheryan discloses a laser beam and focusing transmission device having a fluid flow through. (abstract, figures).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use beam collimation, as taught by Muncheryan in the Nied et al. and Nath system because the laser beam must be focused in order to effectively weld a material.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nied et al. and Nath, as stated above and further in view of Nagura et al. (USPN 6,294,754).

Nied et al. and Nath do not teach the use of a wire feeder.

Nagura et al. discloses laser beam machining having a filler wire and a feed mechanism (207-208).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to use a wire feeder, as taught by Nagura et al. in the Nied et al and Nath system because this is merely a component of welding systems.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nied et al. and Nath, as stated above and further in view of Jones et al. and Muncheryan et al.

Nied et al and Nath do not teach a conduit for beam collimation or a wire feeder. Muncheryan discloses a laser beam and focusing transmission device having a fluid flow through. (abstract, figures). Nagura et al. discloses laser beam machining having a filler wire and a feed mechanism (207-208).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use beam collimation, as taught by Muncheryan in the Nied et al. and Nath system because the laser beam must be focused in order to effectively weld a material.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use a wire feeder, as taught by Nagura et al. in the Nied et al and Nath system because this is merely a component of welding systems.

**Conclusion**


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See US PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Alexandra Elve whose telephone number is 571-272-1173. The examiner can normally be reached on 6:30-3:00 Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on 571-272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 11, 2005.



M. Alexandra Elve  
Primary Examiner 1725